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## Justice and Mrs. Lewis F. Powell Jr.: A Son's Perspective

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# FOREWORD

## JUSTICE AND MRS. LEWIS F. POWELL, JR.: A SON'S PERSPECTIVE

*Lewis F. Powell III\**

I was very pleased to be asked to submit a Foreword for this dedicatory issue. I was nonetheless concerned that I could hardly be deemed an objective observer. Moreover, I am not qualified to critique my father's tenure on the Supreme Court. Nor can I offer any useful or interesting insight on his long years practicing law in Richmond. So, at first I resisted the *Law Review's* generous invitation.

After further reflection, however, I reconsidered. There was one perspective on his life, albeit personal, that belonged uniquely to me, as his son. At his funeral on August 31, 1998, I shared with those in attendance my recollections of him as a father and husband. The *Law Review* thought it would be appropriate to reproduce these remarks. Thus, with one notable exception, what follows has been adapted from that eulogy.

The exception is rooted in my strongly held view, shared by my three sisters, that Dad's wife and soulmate of sixty years played an indispensable role in his successful career. When I

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asked the *Law Review* for permission to include in this Foreword portions of my remarks at Mother's funeral in July 1996, I explained that I did not think it possible to understand my father completely without highlighting her central role in his life.<sup>1</sup> I am confident that Dad would concur in this assessment.

My parents had what many today might call an "old fashioned" relationship. Be that as it may, it worked splendidly for them and for their four children. Perhaps there is a lesson in that.

Not all great men are wonderful husbands and terrific fathers. Ours was. And he was lucky to be married to such a spectacular woman.

*Eulogy for Josephine R. Powell—Parat, Ditat, Durat<sup>2</sup>*

How lucky we are to have known this remarkable woman. How lucky we are to have loved her. And how lucky we are to have been loved by her.

With her life, God has blessed us beyond measure. Now that she has returned to Him, it is altogether fitting that we should gather to remember her, to give thanks for her life, and to reflect on how, in her unique way, she made each of us a better person.

The simple truth is that I have never known anyone to be so relentlessly cheerful. Even discounting the substantial bias of an only son who adored his mother, can we not all agree that Josephine Powell touched each of us with her infectious warmth, her grace, and her charm?

We are indeed the lucky ones. We were her family and her friends, and that anchored all of us securely in the center of her universe. She had other interests, to be sure, but none were nearly so important to her, as we were.

How she lived has given us a new understanding of the phrase—"extended family." For to be in Jo Powell's extended family, one need not to have been related by blood or marriage.

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1. See also John C. Jeffries, Jr., JUSTICE LEWIS F. POWELL, JR. 58-59 (1994).

2. Grace Covenant Presbyterian Church (July 26, 1996).

All that was necessary was to have passed her way from time to time. For Jo Powell, anyone known by her became special to her, and therefore entitled to her special attention, and her special affection.

Because we loved her so, we shall miss her terribly. And though part of our purpose today is to mourn her passing, and to reach out to one another, her family hopes that you will join us in celebrating her life, and in giving thanks for the privilege of being loved by her. So let's spend a little family time reminiscing together.

That so many people are here today is the best evidence of just how large her extended family turned out to be. Of course, it might not have happened this way at all. Mother and Dad became acquainted in an accidental sort of way. Her father—Dr. Pierce Rucker—was one of Richmond's leading obstetricians. Among his many patients was Dad's mother.

Some say it was Grandmother Powell's affection for her doctor that led her to suggest to her son that he court Dr. Rucker's daughter. Others, notably Dad, claim that it was Mother's broadjumping prowess. It cannot have hurt that she was an absolute, take your breath away beauty. Whatever the cause, I believe the union was inevitable.

The courtship began in 1934. They were married on May 2, 1936, and then repaired to Sea Island for their wedding trip. The honeymoon commenced awkwardly, for upon their arrival at the hotel they were initially denied access to the same bedroom. It seems that Harvie Wilkinson—Dad's best friend—had sent a telegram, care of Dad, to "*Miss Josephine Rucker.*" In Georgia in 1936, this had predictable consequences. The desk clerk demanded to see a copy of the marriage certificate. As this particular piece of paper was not something normally taken on a honeymoon, Dad's lawyering skills were severely tested.

Just as the desk clerk at the Cloister needed proof that Mother and Dad were in fact married, others have no doubt questioned just how it came to pass. Not to put too fine a point on it, but people must have scratched their heads and wondered what, exactly, she saw in him. After all, she was one of Richmond's most eligible and attractive young women. No doubt

she had her pick, and yet she picked him. In some respects, at least superficially, it was inexplicable.

The answer, I believe, may be found by understanding that Mother's greatest asset was a boundless, insatiable compulsion to nurture. This had nothing to do with her stunning good looks, her considerable intellect, or her athletic prowess. Instead, at her core, God graced her with a bottomless capacity to embrace others. In short, she embodied the motto of her school—the Collegiate School for Girls: "*Parat, Ditat, Durat*—She Prepares, She Enriches, She Endures."

This remarkable nurturing instinct was also essentially indiscriminate. I say this not to needle Dad, but to remark that she dispensed her love and good cheer to everyone, without exception. To be known by her was to be adopted into her extended family. And like the Supreme Court, it was a lifetime appointment.

While Mother loved us all equally, there was, in a parliamentary way, a "first among equals." And we all know who that was. But once again, why him?

Because *his* destiny required it. She not only complemented him, she completed him.

Without her, no doubt Dad would have been a very fine lawyer and a productive citizen. But with her, and only with her, he achieved his full potential. She was his safe harbor, his uncritical soulmate, his ultimate nurturer. She was his hope, his inspiration, and his passion.

Of all the members of the Jo Powell extended family, from start to finish, he needed her the most. And so he received the best she had to offer. It was as simple as that.

And what a spectacular couple they made. From the ballroom, to the boardroom, to the beltway—wherever they went, they were a gold medal team. Even Dad's close friend and law partner George Gibson, who initially had his doubts about the union, later declared the match "the best he had ever seen."

By modern standards, the relationship may seem to have been one-sided. It was not. Dad may have been the marquee player, but Mother was the glue that held it together, the grease that made it work, and the spit and polish that made it

sparkle. So if you think she did not significantly influence the effectiveness of the juggernaut, you are simply mistaken.

Finally, however, long after most great engines begin to lose steam, Mother's capacity to prop all of us up, simultaneously, began to erode. The initial signs appeared this past winter—signs that she was not, contrary to all evidence to date, immortal and invulnerable.

She became quite ill the last week of March, and we took her to Stuart Circle Hospital early one Sunday morning. We were stunned to learn that she had cancer. And for a few days there, we thought we might lose her. But with the wonderful help of her doctors, she enjoyed a brief reprieve.

Bit by bit, she regained some of her strength and energy. On April 27, she attended the christening of her eighth grandchild. On May 2, we had a small family dinner to celebrate the 60th anniversary of a wonderful love affair. And then on June 22, Dad's law clerks held their annual reunion party. Dad spoke briefly, but it was Mother's light that burned the brightest that night. I expect that the family of law clerks knew, as I did, that this was to be their last complete Powell reunion.

Not long after that, Mother began to fade. Just two weeks ago today, we met with her doctors at the Massey Cancer Center. There was not much more that they could do for her, it seemed. Ever graceful, without a hint of sadness or self-pity, Mother declared: "Well, I suppose that's that. Now I shall have to go home and ask Lewis for his permission to go on ahead of him."

Mother's last two weeks were full of family, and free of pain. She died early Wednesday morning, in her own bed, surrounded by her daughters. Dad spent most of her last two afternoons sitting quietly by her side, holding her hand.

God truly smiled on this woman, and through her, on all of us. She has now added Him to her extended family, and she has rejoined those members who made the passage before her.

One can never be certain about such things, but I rather imagine that, for Jo Powell, heaven is not much different than earth. She is surrounded by the people she has loved, she is

tending an enormous flower garden, and she has a tall fig tree within reach of her bedroom window.

For a while, she will be content to reacquaint herself with old friends and family. Soon, though, she will call the rest of us home to her.

*Eulogy for Lewis F. Powell, Jr.*<sup>3</sup>

Sad though we may be at his passing, this is not a time for mourning. Instead, let us celebrate this extraordinary life. For all that Lewis Powell was, and all that he did, let us give thanks—as family members, as friends and colleagues, and as citizens of this country he so deeply loved.

Our family is enormously grateful to all who have joined us for this memorial service. We especially thank the Chief Justice and Justice O'Connor for their heartfelt remarks, and the entire Court for helping us say farewell and Godspeed.

Hoping for your indulgence, my three sisters and I thought it might be appropriate for us to share with you our perspective on this man as a husband and father. Our view of him is unaffected by his public stature. To us, first and foremost, he was simply Dad. To our mother, he was her soulmate, and the center of her universe. More significantly, perhaps, his private life with us was guided by the same principles that animated his public and professional service.

Distilling the essence of those qualities is a daunting assignment. I therefore trust that you will permit me to lean on a football metaphor.

Many of you may remember a Jeff MacNelly cartoon that appeared in the *Richmond News Leader* following Dad's confirmation by the Senate in the fall of 1971. There had been two vacancies on the Supreme Court. President Nixon appointed Dad and now-Chief Justice Rehnquist on the same day. At their combined confirmation hearings, Dad was treated rather more gently.

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3. Grace Covenant Presbyterian Church (August 31, 1998).

MacNelly's cartoon depicted both men wearing football uniforms. Dad was prancing off the field first, without so much as a scratch or a grass stain. The Chief Justice, by contrast, was limping off, his uniform in tatters. The caption had Dad saying: "Nice blocking in there, Bill."

Though quite apt then, a single frame image intended today to portray Dad's remarkable life might just as well show him as the bruised and battered blocking back, and the rest of us—all of us—leaving the field untouched. For it was his nature to run interference for those around him. In this fashion, he could serve us by leading us.

His objective was that the team should advance the ball. If, from time to time, it became necessary for him to take the ball and personally move it forward, he would not flinch from doing so. But it was simply not his way to demand the ball on every down.

So it was in his relationship with his children. He was always there for us, and I do mean always. Indeed, his level of involvement in our lives made current concepts of "micromanagement" seem, by comparison, like profound disinterest. Our yearnings for occasional indifference went wholly unnoticed.

Did we sometimes resist? Of course we did. But, almost without exception then, and with perfect clarity now, we understood that he was motivated solely by his profound love for us, his supreme confidence that he was right (and mostly, he was), and his congenital inability to leave anything to chance.

Naturally, from time to time we fell short of his expectations. It was not difficult to know when this had happened. But I have no recollection of his disappointment ever changing over to condemnation or unfair criticism. Rather, he always was there, continuing to run interference for us, relentlessly; continuing to teach; continuing to lead; continuing to serve—no matter how inattentive his pupils.

It is less easy for his children to assess him as a husband. My own view is that he never for a moment lost sight of how very lucky he was to be married to our mother. At her memorial service two years ago, I said that she was "his hope, his inspiration, and his passion."



She knew this to be true, because for six decades he never let her forget it. His own words to her, written in September 1942 on the eve of his departure for the European Theater, say it very nicely:

*My glasses are so cloudy with suppressed tears that I can hardly write. And if I could see, there are no words which express my love and admiration for you, and my appreciation for all that you have been to me.*

He then concluded with two sentences that turned out to be a prologue for the rest of their lives together:

*Don't be too sad about my little trip. I will be back, and we will have a home of our own and live happily ever after.*

Except for the "little trip" part—after all, it took him three years to win the war—almost everything else turned out just as he predicted.

Perhaps the only chapter of the script that eluded his control was that Mother passed away first. Her death in July 1996 marked a turning point in Dad's twilight years.

The previous September, he had sat on his last Fourth Circuit case, and had danced with his granddaughter at her wedding. That Thanksgiving, however, for the first time since their move to Washington in 1972, Dad's failing health caused them to remain in Richmond following our traditional family reunion. He would never again cross the Potomac.<sup>4</sup>

Mother was stricken with cancer the very next spring, but she rallied sufficiently to help him celebrate their 60th wedding

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4. Following his retirement from active service on the Supreme Court in June 1987, Dad continued to maintain chambers there. He and Mother also adhered to the annual schedule they had established when they went to Washington in January 1972. From Labor Day until Independence Day they lived in Washington. Summers and holidays were spent in their home in Richmond.

Nearly 80 when he stepped down from the Court, Dad then began to sit regularly with the Fourth Circuit. He continued to do so for nine years, during which time he employed a law clerk every year, and went in to his chambers (whether in Richmond or Washington) six days a week. Old habits are difficult to discard. I doubt it ever occurred to him to try.

anniversary in May. And both of them were in fine form for what was to be the last reunion of his law clerks—held in June.

A month later, Mother was gone. We feared that Dad was so wounded that he would soon follow her. His life, once so full and fascinating, seemed briefly to lie fallow.

But this man who knew so much, never learned how to quit. Instead, his life became a routine of simple pleasures, savored each time as though anew. A daily walk around the driveway circle to the accompaniment of "Mack the Knife." Chocolate ice cream, increasingly for breakfast. Naps, whenever he wanted. Simple pleasures, they are the best.

He was also sustained by the regular attention of his children and grandchildren. Last October, he was thrilled by the birth of his first great grandchild—Zachary Stowers Smith. A month before that, he enjoyed the arrival of his ninth grandchild—finally, a grandson named Powell.<sup>5</sup> I called Dad from the hospital to tell him that we had a boy, and that, with his permission, we would like to name him Lewis F. Powell, IV. Dad became quite serious, and said: "Son, that is a fine offer, but I would not want you to feel obliged to do that." I then said: "Ok, Dad. We'll name him after me." A moment later, he replied: "I think that's a splendid idea."

Whenever any of us would visit, he was full of questions. The question he would ask most frequently was whether there was anything he could do for us. His impulse to serve, to nurture, and to run interference for those he loved, endured to the end.

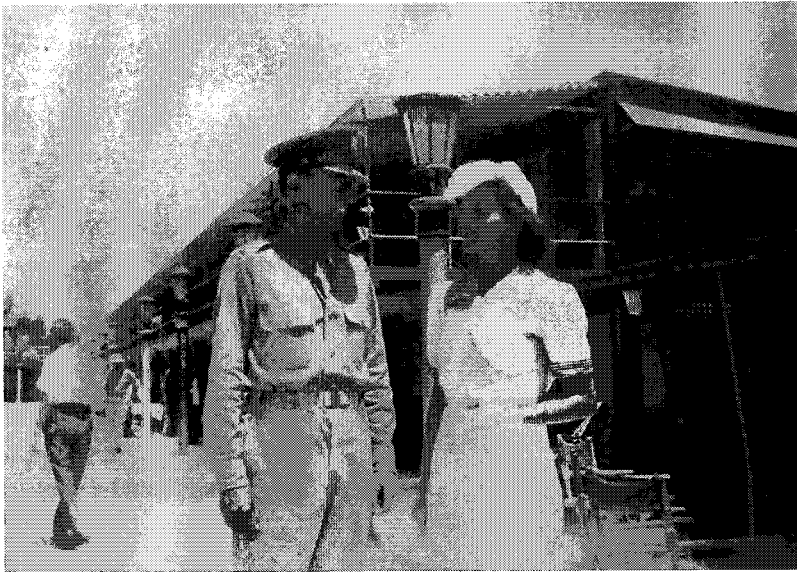
At long last, he has been set free from the frailties that naturally followed nearly a century of going full tilt. It seems to me he has earned a rest. And now he can make good on his promise to Mother that they would live happily ever after.

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5. With his first children being daughters, Dad's first six grandchildren would not bear his name. His anxiety began to increase as I grew older and had two daughters. Thus, the arrival of my son not only removed a big item from Dad's worry list, it also took the heat off of me.

*Conclusion*

My three sisters and I are grateful to the *Law Review* memorializing these reflections on our parents, whom we miss terribly. But how fortunate we were to have been their children, and to have them both live so long into our own lives. We loved them very much, but not as much, I suspect, as they loved us.



JUSTICE AND MRS. LEWIS F. POWELL, JR.  
*circa 1942*